

SB2391



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2391

Introduced 2/26/2021, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

40 ILCS 5/16-140

from Ch. 108 1/2, par. 16-140

Amends the Downstate Teacher Article of the Illinois Pension Code. In a provision defining "eligible child" for purposes of certain survivors' benefits, changes the definition of "disability" to "dependent by reason of a physical or mental disability". Provides that the definition of "dependent by reason of a physical or mental disability" does not require that the eligible child be claimed as a dependent on the member's or annuitant's final federal income tax return. Effective immediately.

LRB102 12575 RPS 17913 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

A BILL FOR

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by
5 changing Section 16-140 as follows:

6 (40 ILCS 5/16-140) (from Ch. 108 1/2, par. 16-140)

7 Sec. 16-140. Survivors' benefits - definitions.

8 (a) For the purpose of Sections 16-138 through 16-143.2,
9 the following terms shall have the following meanings, unless
10 the context otherwise requires:

11 (1) "Average salary": the average salary for the
12 highest 4 consecutive years within the last 10 years of
13 creditable service immediately preceding date of death or
14 retirement, whichever is applicable, or the average salary
15 for the total creditable service if service is less than 4
16 years.

17 (2) "Member": any teacher included in the membership
18 of the system. However, a teacher who becomes an annuitant
19 of the system or a teacher whose services terminate after
20 20 years of service from any cause other than retirement
21 is considered a member, subject to the conditions and
22 limitations stated in this Article.

23 (3) "Dependent beneficiary": (A) a surviving spouse of

1 a member or annuitant who was married to the member or
2 annuitant for the 12 month period immediately preceding
3 and on the date of death of such member or annuitant,
4 except where a child is born of such marriage, in which
5 case the qualifying period shall not be applicable; (A-1)
6 a surviving spouse of a member or annuitant who (i) was
7 married to the member or annuitant on the date of the
8 member or annuitant's death, (ii) was married to the
9 member or annuitant for a period of at least 12 months (but
10 not necessarily the 12 months immediately preceding the
11 member or annuitant's death), and (iii) has not received a
12 benefit under subsection (a) of Section 16-141 or
13 paragraph (1) of Section 16-142; (B) an eligible child of
14 a member or annuitant; and (C) a dependent parent.

15 Unless otherwise designated by the member, eligibility
16 for benefits shall be in the order named, except that a
17 dependent parent shall be eligible only if there is no
18 other dependent beneficiary. Any benefit to be received by
19 or paid to a dependent beneficiary to be determined under
20 this paragraph as provided in Sections 16-141 and 16-142
21 may be received by or paid to a trust established for such
22 dependent beneficiary if such dependent beneficiary is
23 living at the time such benefit would be received by or
24 paid to such trust.

25 (4) "Eligible child": an unmarried natural or adopted
26 child of the member or annuitant under age 18 (age 22 if a

1 full-time student). An unmarried natural or adopted child,
2 regardless of age, who is dependent by reason of a
3 physical or mental disability is eligible for so long as
4 such physical or mental disability continues. An adopted
5 child, however, is eligible only if the proceedings for
6 adoption were finalized while the child was a minor.

7 For purposes of this subsection, "dependent by reason
8 of a physical or mental disability" means the an inability
9 to engage in any substantial gainful activity by reason of
10 any medically determinable physical or mental impairment
11 which can be expected to result in death or which has
12 lasted or can be expected to last for a continuous period
13 of not less than 12 months, but does not require that the
14 eligible child be claimed as a dependent on the member's
15 or annuitant's final federal income tax return.

16 The changes made to this Section by Public Act 90-448,
17 relating to benefits for certain unmarried children who
18 are full-time students under age 22, apply without regard
19 to whether the deceased member was in service on or after
20 the effective date of that Act. These changes do not
21 authorize the repayment of a refund or a re-election of
22 benefits, and any benefit or increase in benefits
23 resulting from these changes is not payable retroactively
24 for any period before the effective date of that Act.

25 (5) "Dependent parent": a parent who was receiving at
26 least 1/2 of his or her support from a member or annuitant

1 for the 12-month period immediately preceding and on the
2 date of such member's or annuitant's death, provided
3 however, that such dependent status terminates upon a
4 member's acceptance of a refund for survivor benefit
5 contributions as provided under Section 16-142.

6 (6) "Non-dependent beneficiary": any person,
7 organization or other entity designated by the member who
8 does not qualify as a dependent beneficiary.

9 (7) "In service": the condition of a member being in
10 receipt of salary as a teacher at any time within 12 months
11 immediately before his or her death, being on leave of
12 absence for which the member, upon return to teaching,
13 would be eligible to purchase service credit under
14 subsection (b)(5) of Section 16-127, or being in receipt
15 of a disability or occupational disability benefit. This
16 term does not include any annuitant or member who
17 previously accepted a refund of survivor benefit
18 contributions under paragraph (1) of Section 16-142 unless
19 the conditions specified in subsection (b) of Section
20 16-143.2 are met.

21 (b) The change to this Section made by Public Act 90-511
22 applies without regard to whether the deceased member or
23 annuitant was in service on or after the effective date of that
24 Act.

25 The change to this Section made by this amendatory Act of
26 the 91st General Assembly applies without regard to whether

1 the deceased member or annuitant was in service on or after the
2 effective date of this amendatory Act.

3 (Source: P.A. 95-870, eff. 8-21-08.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.